

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND SIX
—

S.P. 684 - L.D. 1767

An Act To Clarify the Charitable Solicitations Act

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9 MRSA §5002, as amended by PL 1999, c. 386, Pt. A, §1, is further amended to read:

§5002. Intent

It is the intent of the Legislature to require the registration and financial reporting of charitable organizations, professional solicitors, professional fund-raising counsel and commercial co-venturers and the registration and bonding of professional fund-raising counsel solicitors and commercial co-venturers ~~and-the-registration-of-professional-solicitors~~.

Sec. 2. 9 MRSA §5003, sub-§3, as amended by PL 2003, c. 541, §2, is further amended to read:

3. **Commercial co-venturer.** "Commercial co-venturer" means any person who, for profit, is regularly and primarily engaged in trade or commerce in this State, other than in connection with the raising of funds for charitable organizations or purposes, and who conducts a sale, performance, event or collection and sale of donated goods that is advertised in conjunction with the name of any charitable organization. Any such person who will benefit in good will only may not be considered a commercial co-venturer if the collection and distribution of the proceeds of

the sale, performance or event, or the collection and sale of donated goods, are supervised and controlled by the benefiting charitable organization. Any such person whose annual contributions to charitable organizations do not exceed \$10,000 is exempt from the registration requirement under section 5002.

Sec. 3. 9 MRSA §5003, sub-§4, ¶A, as enacted by PL 1977, c. 488, §1, is amended to read:

A. Payments by members of an organization for membership fees, dues, fines or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor or other direct benefits, other than the right to vote, elect officers or hold offices; or

Sec. 4. 9 MRSA §5003, sub-§4, ¶B, as enacted by PL 1977, c. 488, §1, is amended to read:

B. Money or property received from any governmental authority; or

Sec. 5. 9 MRSA §5003, sub-§4, ¶C is enacted to read:

C. Money or property received from a foundation established for charitable or educational purposes.

Sec. 6. 9 MRSA §5004, sub-§1, ¶A, as enacted by PL 1999, c. 386, Pt. A, §8, is amended to read:

A. Unless exempt pursuant to section 5006, a charitable organization, that intends to solicit, accept or obtain contributions in this State or to have contributions solicited, accepted or obtained on its behalf within this State shall file a registration statement with the office at least 30 days before solicitation soliciting, accepting or obtaining contributions in each year in which the organization is engaged in solicitation activities soliciting, accepting or obtaining contributions. The charitable organization shall identify any affiliate organizations or chapters on its registration statement.

Sec. 7. 9 MRSA §5004, sub-§1, ¶C, as enacted by PL 1999, c. 386, Pt. A, §8, is amended to read:

C. Before approval of its statement by the office in accordance with section 5008, a charitable organization that is required to file an initial registration statement or annual renewal statement may not solicit, accept or obtain contributions or have contributions solicited, accepted or

obtained on its behalf by any other person, charitable organization, commercial co-venturer or professional solicitor, or participate in charitable sales promotion.

Sec. 8. 9 MRSA §5004, sub-§4, ¶D, as repealed and replaced by PL 2003, c. 541, §8, is amended to read:

D. The complete packet for renewal of registration application must include all the requirements identified in subsection 3 as well as the following:

(1) An audited financial statement, including federal Internal Revenue Service 990 and Schedule A forms or a 990 EZ form. Failure to file an audited financial statement of the organization's most recent audited fiscal year may be grounds for disciplinary action as provided under Title 10, section 8003, subsection 5. The office shall adopt rules governing the content of the audited financial statement. Rules adopted pursuant to this subparagraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A; and

(2) The nonrefundable fee for renewal of registration ~~plus the required filing fee for charitable organizations receiving more than \$30,000 in gross contributions.~~

Sec. 9. 9 MRSA §5008, sub-§1, as amended by PL 2003, c. 541, §12, is further amended to read:

1. **Registration.** A person or entity may not act as a professional solicitor, a professional fund-raising counsel or a commercial co-venturer before that person or entity has registered with the office. Applications for registration or reregistration must be in writing, under oath, in the form prescribed by the office and accompanied by an application fee and a registration fee. The application fee is nonrefundable. The applicant, except for applicants that are registering as professional fund-raising counsel, shall, at the time of making application for registration or reregistration, file with and have approved by the office a bond, in which the applicant must be the principal obligor and the State the obligee, in the sum of \$25,000, with one or more responsible sureties whose liability in the aggregate as such sureties at least equals that sum. The bond runs to any person or entity who may have a cause of action against the principal obligor of the bond for any malfeasance or misfeasance in the conduct of charitable solicitation in this State. Registration is for a period of one year.

Sec. 10. 9 MRSA §5008, sub-§1-A, ¶C, as enacted by PL 1999, c. 386, Pt. A, §16, is amended to read:

C. The complete application packet must include:

- (1) All forms required in this section;
- (2) A Except for professional fund-raising counsel, a bond approved by the department in the sum of \$25,000 with one or more responsible sureties whose liability in the aggregate as such sureties at least equals that sum. The bond must expire on the stated date of expiration and be kept on file in the office for 3 years; and
- (3) A \$200 renewal of registration fee.

Sec. 11. 9 MRSA §5008, sub-§1-A, ¶D, as amended by PL 2003, c. 541, §12, is further amended to read:

D. A professional solicitor, ~~professional fund-raising counsel~~ or commercial co-venturer who submits an application for renewal of registration ~~after the expiration date~~ must submit:

- (1) A bond in the sum of \$25,000 that expires on the stated date of expiration;
- (2) A renewal of registration fee; and
- (3) The completed ~~original~~ application.

Sec. 12. 9 MRSA §5008, sub-§1-A, ¶G is enacted to read:

G. A professional fund-raising counsel who is applying for a renewal of registration must submit:

- (1) A renewal of registration fee; and
- (2) A completed renewal application.

Sec. 13. 9 MRSA §5017, as enacted by PL 2003, c. 541, §18, is amended to read:

§5017. Denial or refusal to renew registration

The commissioner may deny or refuse to renew a registration under this chapter for fraud, misrepresentation or deception on an application or for violation of any provision of statute or rule adopted under this chapter.